

A Regular Meeting of the City Council of the City of Hickory was held in the Council Chamber of the Municipal Building on Tuesday, October 5, 2021, at 7:00 p.m., with the following members present:

Tony Wood	Hank Guess	David L. Williams
Charlotte C. Williams	Aldermen	David P. Zagaroli
Danny Seaver		Jill Patton

A quorum was present.

Also present were City Manager Warren Wood, Deputy City Manager Rodney Miller, Assistant City Manager Rick Beasley, Deputy City Attorney Arnita Dula, City Attorney John W. Crone, III, Deputy City Clerk Crystal B. Mundy and City Clerk Debbie D. Miller

- I. Mayor Guess called the meeting to order. All Council members were present.
- II. Invocation by Reverend Antonio Logan, Friendship Baptist Church
- III. Pledge of Allegiance
- IV. Special Presentations
 - A. Presentation of a Proclamation for Fire Prevention Week to Hickory Fire Department.

Mayor Guess read and presented a Proclamation for Fire Prevention Week to Hickory Fire Department Chief Matt Hutchinson and Fire Marshal Stephen Craig.
- V. Persons Requesting to Be Heard
- VI. Approval of Minutes
 - A. Regular Meeting of September 21, 2021.

Alderman Patton moved, seconded by Alderman Seaver that the Minutes of the Regular Meeting of September 21, 2021, be approved. The motion carried unanimously.
 - B. Special Meeting of September 21, 2021

Alderman Seaver moved, seconded by Alderman Williams that the Minutes of the Special Meeting of September 21, 2021, be approved. The motion carried unanimously.
 - C. Special Meeting of September 28, 2021.

Alderman Patton moved, seconded by Alderman Williams that the Minutes of the Special Meeting of September 28, 2021, be approved. The motion carried unanimously.
- VII. Reaffirmation and Ratification of Second Readings. Votes recorded on first reading will be reaffirmed and ratified on second reading unless Council Members change their votes and so indicate on second reading.

Alderman Patton moved, seconded by Alderman Williams that the following be reaffirmed and ratified on second reading. The motion carried unanimously.

 - A. Consideration of a Speed Limit Reduction to 25 MPH along 3rd Avenue SE between NC Highway 127 and South Center Street along 2nd Street SE between 3rd Avenue SE and 2nd Avenue SE, and along 1st Street SE between 3rd Avenue SE and 2nd Avenue SE. (First Reading Vote: Unanimous)
 - B. Budget Revision Number 5. (First Reading Vote: Unanimous)
 - C. Consideration of Rezoning Petition 21-03 for Property Located Near Startown Road, Containing Approximately 108.25 Acres, Owned by Trivium Corporate Center, Inc. (First Reading Vote: Unanimous)
- VIII. Consent Agenda: All items below will be enacted by vote of City Council. There will be no separate discussion of these items unless a Council Member so requests. In which event, the item will be removed from the Consent Agenda and considered under Item IX.

Alderman Patton moved, seconded by Alderman Williams approval of the Consent Agenda. The motion carried unanimously.

 - A. Called for a Public Hearing for Consideration of Proposed Redistricting Plans (Authorized Public Hearing for October 19, 2021, at 7:00 p.m. in Council Chambers of the Julian G. Whitener Municipal Building.)
 - B. Called for a Public Hearing for Consideration of the Voluntary Contiguous Annexation of 1.99 Acres of Property Located at 2185 13th Avenue Drive SE, PIN 3712-20-80-5063.

(Authorized Public Hearing for October 19, 2021, at 7:00 p.m. in Council Chambers of the Julian G. Whitener Municipal Building.)

RESOLUTION NO. 21-40

RESOLUTION DIRECTING THE CLERK TO INVESTIGATE A PETITION RECEIVED UNDER G.S. 160A-31 AND/OR 160A-58.1, AS AMENDED

WHEREAS, a petition from PTM, L.P. requesting annexation of an area described in a petition was received on September 21, 2021, by the City Council of the City of Hickory; and

WHEREAS, G.S. 160A-31 and G.S. 160A-58.1 provide that the sufficiency of the petition shall be investigated by the Clerk before further annexation proceedings may take place; and

WHEREAS, the City Council of the City of Hickory deems it advisable to proceed in response to this request for annexation.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HICKORY:

THAT, the Clerk is hereby directed to investigate the sufficiency of the above-described petition and to certify as soon as possible to the City Council the result of her investigation.

CERTIFICATE OF SUFFICIENCY

TO THE CITY COUNCIL OF THE CITY OF HICKORY, NORTH CAROLINA:

I, Debbie D. Miller, City Clerk, do hereby certify that I have investigated the petition attached hereto and have found as a fact that said petition is signed by all owners of real property lying in the area described therein, in accordance with G.S. 160A-31 and/or G.S. 160A-58.1, as amended:

Property of PTM, L.P. located at 2185 13th Avenue Drive SE, Hickory, North Carolina, containing 1.99 acres more or less, and identified as PIN 3712-20-80-5063.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the City of Hickory this 21st day of September 2021.

/s/Debbie D. Miller, City Clerk

RESOLUTION 21-41

RESOLUTION FIXING DATE OF PUBLIC HEARING ON QUESTION OF ANNEXATION, PURSUANT TO G.S. 160A-31 OR G.S. 160A-58.1, AS AMENDED

WHEREAS, a petition requesting annexation of the area described herein has been received; and

WHEREAS, the City Council of the City of Hickory has, by Resolution, directed the clerk to investigate the sufficiency thereof; and

WHEREAS, certification by the Clerk as to the sufficiency of said petition has been made.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HICKORY:

Section 1: That a public hearing on the question of annexation of the area described herein will be held at 7:00 p.m. on October 19, 2021, in the Council Chambers of the Julian G. Whitener Municipal Building, located at 76 North Center Street, Hickory, North Carolina.

Section 2: The area proposed for annexation is described as follows:

Property of PTM, L.P. located at 2185 13th Avenue Drive SE, Hickory, North Carolina, containing 1.99 acres more or less, and identified as PIN 3712-20-80-5063.

Section 3: Notice of said public hearing shall be published in The Hickory Daily Record, a newspaper having general circulation in the City of Hickory, at least ten (10) days prior to the date of said public hearing.

RESOLUTION NO. 21-42

A RESOLUTION DETERMINING THE INTENT TO ANNEX INTO THE CORPORATE LIMITS OF THE CITY OF HICKORY CERTAIN PROPERTY OWNED BY PTM, L.P. AND CALLING FOR A PUBLIC HEARING ON THE SAME

WHEREAS, PTM, L.P. is the owner of certain real property as described herein, which property is located at 2185 13th Avenue Drive SE, Hickory, North Carolina, containing 1.99 acres more or less, and identified as PIN 3712-20-80-5063; and

WHEREAS, such property is currently located in the City's extra-territorial jurisdictional (ETJ); and

WHEREAS, it is in the best interest of the health, safety, and well-being of the residents of the City of Hickory to annex such property into the corporate limits of the City of Hickory as authorized by N.C.G.S. Section 160A-31; and

NOW, THEREFORE BE IT RESOLVED by the Hickory City Council, sitting in open session this 5th day of October 2021, at a regularly scheduled meeting of the governing body of said Council, duly called and posted in accordance with the statutes of the State of North Carolina, as follows:

- Section 1: That the Hickory City Council does determine that it is in the best interest of the health, safety, and well-being of the residents of the City of Hickory to annex the property described hereinafter into the corporate limits of the City of Hickory.
- Section 2: That a public hearing on the question of annexation of the area described herein will be held at 7:00 p.m. on October 19, 2021, in the Council Chambers of the Julian G. Whitener Municipal Building, located at 76 North Center Street, Hickory, North Carolina.
- Section 3: The same being that property reflected on map entitled PTM, L.P. Voluntary Contiguous Annexation Map 1 Existing City Boundary, subject property outlined in red; PTM, L.P. Voluntary Contiguous Annexation Map 2 Zoning, subject property outlined in red; PTM, L.P. Voluntary Contiguous Annexation Map 3 Aerial Photography, subject property outlined in red.
- Section 4: Notice of said public hearing shall be published in The Hickory Daily Record, a newspaper having general circulation in the City of Hickory, at least ten (10) days prior to the date of said public hearing.
- C. Approved the Cemetery Deed Transfer from Gretchen Scronce and husband, Haley Hall; Guy Paul Scronce and wife, Elizabeth K. Lamb-Scronce; Heidi Scronce and husband Peter Stone; Gabrielle Scronce and husband David Davis Morse; and Gretchen Scronce, as Executrix of the Estate of Wilton Paul Scronce to David Jack Wilkinson, single, (Oakwood Cemetery, Plot E, Lot No. 6-A, Section 33, Spaces 1 and 2) (Prepared by Kimberly H. Whitley, Esq., Patrick, Harper & Dixon, LLP).
- D. Approved the Cemetery Deed Transfer from City of Hickory to James Y. Der and Helen Der (Southside Cemetery, Plot B, Lot Nos. 8, 9, 20, and 21, Section 5) (Prepared by Arnita M. Dula, Deputy City Attorney).
- E. Approved Amendment Four with Design Workshop, Inc. for Additional Services for the Riverwalk Project in the Amount of \$31,395.

Staff requests Council's approval of a contract amendment with Design Workshop, Inc. for additional services for the Riverwalk project in the amount of \$31,395. The City has been working with Design Workshop, Inc. on the Riverwalk project since being awarded the original contract on February 7, 2017, in the amount of \$798,654. In the summer of 2018, the City explored with the design team an on-land trail for part of the Riverwalk project. Following the results of the Geotech findings, the Bond Implementation Commission and Hickory City Council approved the recommendation to design the Riverwalk as both on-land and over the water. During installation of the drilled shafts for the bridge, solid rock was encountered at a much shallower depth than originally anticipated. The redesign of the shafts will allow the contractor to minimize the depth of the shafts in rock and have a substantial savings in time and money for the project. Amendment number four to this agreement will include two tasks. Coordination with the geotechnical engineer to review the drilled shafts as the work progresses and redesign as necessary and the review of shop drawings and make recommendations for approval per the original design of the project. Staff recommends Council's approval of the contract amendment with Design Workshop, Inc. for additional services for the Riverwalk project in the amount of \$31,395.

- F. Approved a Professional Services Agreement with Freese and Nichols, Inc. in the Amount of \$344,960 for Northwest Sewer Extension Design/ARC Grant.

Staff requests Council's approval of a Professional Services Agreement with Freese and Nichols, Inc., for the Northwest sewer extension design/ARC Grant in the amount of \$344,960. This project is the result of development of the Airport area coupled with the City's Bond initiative opening up the area for future development. The project received partial funding from the Appalachian Regional Commission for this sewer project. RFQ's were advertised for this service and received on April 16, 2021. There were five firms that responded to the solicitation for RFQ's: Freese and Nichols, Inc.; Clayton Engineering; Civil and Environmental Consultants; McGill Associates; and KCI. After staff review, Freese and Nichols was determined to be the most responsible respondent to the RFQ. Staff recommends Council's approval of a Professional Services Agreement with Freese and Nichols, Inc., for the Northwest sewer extension design/ARC Grant in the amount of \$344,960.

- G. Approved Amendment Three to the Bulk Water Sale Agreement with the Town of Mooresville.

Staff requests Council's approval of a Third Amendment to the Bulk Water Sale Agreement between the City of Hickory and Town of Mooresville. The City of Hickory and Town of Mooresville entered into an agreement to sale bulk water to the Town of Mooresville as they were in the process of upgrading the Mooresville Water Treatment Facility. Within that agreement there existed the provision to continue this agreement through consecutive 5-year renewals. The amendment is the third renewal option for the provision of bulk water. The Town of Mooresville in this agreement was required to extend waterlines along NC Hwy 150 from Sherrill's Ford School Road to the eastern side of Lake Norman at approximately Big Daddy's Restaurant and Store for the City of Hickory. This proposed amendment follows the provisions of the original agreement and the first amendment with all respects, except the updated volumetric rate of purchase and updated years it will be in effect. The purchase price for water will be equivalent to the outside rates for the City of Hickory. The effective dates of this amendment will be from date of approval until June 30, 2025. Water rates are subject to adjustment annually as approved by City of Hickory City Council. The original agreement was executed on May 16, 2003. No water has been purchased from the City of Hickory by the Town of Mooresville since completion of construction of necessary waterlines, however the City of Hickory currently has customers along this section of waterline. Staff recommends Council's approval of the Third Amendment to the Bulk Water Sale Agreement between the City of Hickory and Town of Mooresville.

- H. Approved a Professional Services Agreement with R. Joe Harris & Associates for the Short Road/Eller Road Waterline Extensions Project Design in the Amount of \$60,525.

Staff requests Council's approval of a Professional Services Agreement with R. Joe Harris & Associates for the Short Road/Eller Road waterline extensions project design in the amount of \$60,525. This project is the result of the Startown Road area and current development needs coupled with the ability to serve future land areas in the basin to spur economic development for the City of Hickory. This waterline extension will connect infrastructure from Robinson Road to Startown Road opening the corridor for development and creating a more robust distribution system. Staff requests Council's approval of a Professional Services Agreement with R. Joe Harris & Associates for the Short Road/Eller Road waterline extensions project design in the amount of \$60,525.

- I. Approved on First Reading Budget Revision Number 6.

ORDINANCE NO. 21-33
BUDGET REVISION NUMBER 6

BE IT ORDAINED by the Governing Board of the City of Hickory that, pursuant to N.C. General Statutes 159.15 and 159.13.2, the following revision be made to the annual budget ordinance for the fiscal year ending June 30, 2022, and for the duration of the Project Ordinances noted herein.

SECTION 1. To amend the General Fund within the FY 2021-22 Budget Ordinance, the expenditures are to be changed as follows:

FUNCTIONAL AREA	INCREASE	DECREASE
Public Safety	2,725	-
TOTAL	2,725	-

To provide funding for the above, the General Fund Revenues will be amended as follows:

FUNCTIONAL AREA	INCREASE	DECREASE
Restricted Governmental Revenue	2,725	-
TOTAL	2,725	-

SECTION 2. To amend the Water and Sewer Fund within the FY 2021-22 Budget Ordinance, the expenditures are to be changed as follows:

FUNCTIONAL AREA	INCREASE	DECREASE
Other Financing Uses	430,485	-
TOTAL	430,485	-

To provide funding for the above, the Water and Sewer revenues will be amended as follows:

FUNCTIONAL AREA	INCREASE	DECREASE
Other Financing Sources	430,485	-
TOTAL	430,485	-

SECTION 3. To amend the Transportation Fund within the FY 2021-22 Budget Ordinance, the expenditures shall be changed as follows:

FUNCTIONAL AREA	INCREASE	DECREASE
Transportation	99,750	-
Contingency	-	40,000
TOTAL	99,750	40,000

C

To provide funding for the above, the Transportation Fund revenues will be amended as follows:

FUNCTIONAL AREA	INCREASE	DECREASE
Other Financing Sources	9,750	-
Sales and Services	50,000	-
TOTAL	59,750	-

p

SECTION 4. To establish the Short Road Water Project (#803307), the expenditures shall be established as follows:

FUNCTIONAL AREA	INCREASE	DECREASE
Water/Sewer Capital Projects	60,525	-
TOTAL	60,525	-

To provide funding for the above, the Project revenues will be established as follows:

FUNCTIONAL AREA	INCREASE	DECREASE
Other Financing Sources	60,525	-
TOTAL	60,525	-

p

SECTION 5. To amend the Community Development Block Grant (CDBG) Fund within the FY 2021-22 Budget Ordinance, the expenditures shall be changed as follows:

FUNCTIONAL AREA	INCREASE	DECREASE
Economic & Community Development	409,535	-
TOTAL	409,535	-

C

To provide funding for the above, the CDBG revenues will be changed as follows:

FUNCTIONAL AREA	INCREASE	DECREASE
Restricted Intergovernmental Revenue	409,535	-
TOTAL	409,535	-

C

SECTION 6. To establish the NW Sewer Extension/ARC Grant Project (#803308), the expenditures shall be established as follows:

FUNCTIONAL AREA	INCREASE	DECREASE
Water/Sewer Capital Projects	369,960	-
TOTAL	369,960	-

To provide funding for the above, the Project revenues will be established as follows:

FUNCTIONAL AREA	INCREASE	DECREASE
Other Financing Sources	369,960	-
TOTAL	369,960	-

SECTION 7. Copies of the budget revision shall be furnished to the Clerk of the Governing Board, and to the City Manager (Budget Officer) and the Finance Officer for their direction.

IX. Items Removed from Consent Agenda – None

X. Informational Item

XI. New Business:

A. Public Hearings

1. Approved on First Reading the Proposed Amendments Related to the Hickory Trail System, Section 18-1, and the Addition of Section 18-59 to Chapter 18 Motor Vehicles and Traffic of the Hickory City Code of Ordinance – Presentation by Deputy City Attorney Arnita Dula.

Consideration of amendments to the Chapter 18 of the Hickory Code of Ordinances. As part of the 2014 citizen supported \$40 million bond referendum, the City is engaged in constructing the Hickory Trail, a 10-mile multi-use path made up of the City Walk, Historic Ridgeview Walk, OLLE Art Walk, Riverwalk, and Aviation Walk. The Hickory Trail will provide pedestrians, bicyclists and other vehicle operators safety while connecting popular amenities and destinations. Section 18-1 of Chapter 18 currently defines “sidewalk,” but it does not define “multi-use trail” which is to be distinguished from a traditional sidewalk. Other chapter sections also address the use of bicycles, skateboards, and other similar vehicles on traditional City sidewalks, but these sections do not address such use on the Hickory Trail, which is a multi-use pathway. The proposed amendment to Section 18-1 will define “multi-use trail.” Currently, Section 18-59 is reserved for future use. Placing 18-59 into operation is proposed to address the types of vehicles that will be permitted on the multi-use trail system. Staff recommends Council’s approval of the amendments to Chapter 18 of the Hickory Code of Ordinances.

This public hearing was advertised in a newspaper having general circulation in the Hickory area on September 24, 2021.

City Manager Warren Wood asked Deputy City Attorney Arnita Dula to the podium to present Council with proposed amendments related to the Hickory Trail System, Section 18-1, and the addition of Section 18-59 to Chapter 18 Motor Vehicles and Traffic of the City of Hickory Code of Ordinance.

Deputy City Attorney Arnita Dula presented a PowerPoint presentation. She discussed amendments to Chapter 18 Motor Vehicles. She gave an overview. The proposed amendments addressed the use of vehicles, bicycles, scooters, and other similar devices on the City's Hickory Trail, which was the 10-mile multiuse path. This consisted of the following walks: City Walk, the Historic Ridgeview Walk, the OLLE Art Walk, Riverwalk, and Aviation Walk. The first change was to Section 18-1, which was definitions. This chapter added the term multiuse trail and the definition. The designation was that the multiuse trail was any City maintained pathway that was at least 10-feet in width and designated for shared use by pedestrians, bicycles, and non-motorized vehicles. An existing term, sidewalk, had been amended with the addition of underlying language. She referred to the language on the PowerPoint and advised it was to distinguish the width. Traditional sidewalk was 48-inches to 60-inches, to distinguish it from the multiuse trail which was 10-feet at least in width. The reason for this was because other sections in the City code actually prohibited use of non-motorized vehicles on standard City sidewalks. Some examples: Section 5-7 prohibited riding bicycles on sidewalks; Section 29-19 prohibited roller skating, riding bikes and scooters on sidewalks; and Section 29-137 prohibited bicycles, skateboards, other vehicles or wheeled contrivances or equipment on Union Square, with the exception of mobility devices, maintenance repair, construction vehicles, and vehicles that are part of special events. The multiuse trail term had to be added to distinguish otherwise the City code would prohibit the use of any of those devices or vehicles even on the multiuse trail. Section 18-59 was reserved. There were a number of sections that were reserved to add sections if needed. This was the next one and it was going to be titled Operation of Vehicles on Multiuse Trails. She gave a brief summary of each one. Section 8 prohibited the use of motorized vehicles with the exception of devices that serve as mobility aids or were auxiliary to wheelchairs. She explained this would be a device, a motor to convert a manual wheelchair to a power chair. Those would be permitted. This section also restricted the speed of non-motorized vehicles on the trails to 10-mph and require pedestrians and vehicle operators to follow any posted rules and regulations. Section D outlined the penalty, violators may incur

a civil penalty of up to \$50. It exempted motor vehicles used for property maintenance, emergency vehicles or other City authorized services. She asked for any questions. She referred to a photo on the PowerPoint and commented you never know they may have somebody out there on a unicycle.

Alderman Seaver asked about a Segway. Were they allowed to ride on the sidewalk?

Deputy City Attorney Arnita Dula responded no.

Alderman Seaver asked where they could ride a Segway.

Deputy City Attorney Arnita Dula replied not on the sidewalk.

Mayor Guess asked if they could on the multiuse trail.

Deputy City Attorney Arnita Dula responded no. She clarified the photo in the picture on the PowerPoint was a scooter, a manual scooter. She asked for any other questions.

Alderman Wood asked what covered the bike path at City of Hickory Park.

Deputy City Attorney Arnita Dula asked if he was referring to the mountain trail.

Alderman Wood replied it was a multiuse path.

Deputy City Attorney Arnita Dula advised that was specifically designed for that type of activity, and riding. She did not know if that would be considered to be a regular path.

Alderman Wood commented now it would fall under multiuse trail.

Deputy City Attorney Arnita Dula responded right, but specifically designed for that activity. She asked for any further questions.

Mayor Guess explained the rules for conducting the public hearing. He declared the public hearing open and asked if there was anyone present to speak in opposition to the proposal. No one appeared. Mayor Guess asked if there was anyone present to speak in favor of the proposal. No one appeared. Mayor Guess closed the public hearing.

Alderman Patton moved, seconded by Alderman Zagaroli approval of the proposed amendments and addition to Chapter 18 of the Hickory City Code of Ordinance. The motion carried unanimously.

ORDINANCE NO. 21-34

AN ORDINANCE OF THE HICKORY CITY COUNCIL AMENDING SECTION, 18-1 DEFINITIONS AND ADDING SECTION 18-59 OPERATION OF VEHICLES ON MULTI-USE TRAILS IN CHAPTER 18 MOTOR VEHICLES AND TRAFFIC OF THE HICKORY CODE OF ORDINANCES

WHEREAS, as part of the 2014 citizen supported \$40 million bond referendum, the City is engaged in constructing the Hickory Trail, a 10-mile multi-use path made up of the City Walk, Historic Ridgeview Walk, OLLE Art Walk, Riverwalk, and Aviation Walk; and

WHEREAS, the Hickory Trail will provide pedestrians, bicyclists and other vehicle operators safety while connecting popular amenities and destinations; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HICKORY, THAT SECTION 18-1 and 18-59 OF CHAPTER 18 OF THE HICKORY CITY CODE BE AMENDED AS FOLLOWS:

Section 1: Amended.

a. Sec 18-1. - Definitions

This following definition is added to this section:

Multi-use Trail means any city-maintained pathway, at least 10 feet in width, designated for the shared use of pedestrians, bicycles, and non-motorized vehicles.

The following current definition is amended by adding the underlined language:

Sidewalk means that portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacently property lines, generally ranging in width from 48 inches to 60 inches, intended for the use of pedestrians.

- b. Sec.18-59. which was reserved for future use shall be amended as follows:

Sec.18-59. - Operation of vehicles on multi-use trails.

(a) It shall be unlawful for any person to ride or otherwise operate any motor vehicle upon any multi-use trail maintained by the city or to which public access has been granted in any manner by any private property owner, with the exception of an electric vehicle that serves as an aid for mobility or is auxiliary to a wheelchair.

(b) The operator of any permissible, non-motorized vehicles shall not exceed the speed of 10 miles per hour upon any multi-use trail.

(c) Any pedestrian or vehicular operator must follow all posted rules and regulations.

(d) Violation of this section may subject the offender to a civil penalty in the amount of not more than \$50.00, unless some other amount shall be specifically delineated, to be recovered by the city in a civil action in the nature of debt if the offender does not pay the penalty within a period of 72 hours after he has been cited for violation of the ordinance.

(e) This section shall not include the operation of motor vehicles engaged in property maintenance, emergency services, or other services authorized by the city.

Section 2: Severability.

If any portion of this Section is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed severable, and such holding shall not affect the validity of the remaining portions hereof.

Section 3: Repealed.

All ordinances or provisions of the Hickory City Code of Ordinances which are not in conformance with the provisions of the Amendment occurring herein are repealed as of the effective date of this Ordinance.

Section 4: Effective Date.

This Ordinance shall become effective immediately upon adoption.

2. Approved on First Reading Rezoning Petition 21-05 for 3617 Section House Road, Located Between Adam Street and Garren Drive – Presentation by Planning Director Brian Frazier.

The property located at 3617 Section House Road is currently zoned R-1. Due to floodplain constraints on the western portion of the property the owner is seeking to rezone their property to allow for higher density to increase the developability of their parcel. Under the current City and County zoning the property can be developed for single and two-family residential uses at a density of two dwelling units per acre. Given the current zoning, the property could theoretically yield 41 dwelling units. The subject property is currently vacant; however, the owners intend to develop the property as a single-family residential subdivision. The owners have requested the property be zoned Residential – 2 (R-2). The density and uses in R-2 are different than R-1. The maximum R-2 density is four units per acre; however, R-2 does not permit duplexes or manufactured homes as allowed by the R-1 district. Given the area, 20.66 acres, the property could theoretically yield 82 single-family lots under R-2 zoning. The Hickory Regional Planning Commission conducted a public hearing on September 22, 2021, to consider the petition and voted unanimously (8-0) to affirm the petition's consistency with the Hickory by Choice 2030 Comprehensive Plan, and recommended City Council's approval of the petition. Staff concurs with the recommendation of the Hickory Regional Planning Commission.

This public hearing was advertised in a newspaper having general circulation in the Hickory area on September 24, and October 1, 2021.

City Manager Warren Wood asked Planning Director Brian Frazier to the podium to present Council with rezoning petition number 21-05 for property located at 3617 Section House Road, located between Adam Street and Garren Drive.

Planning Director Brian Frazier presented a PowerPoint presentation. He discussed rezoning petition number 21-05. The property owner was the Favor Center Inc. The applicant was Mr. Jerry Grillo, and Mr. John McCormick was the agent. The property was located between Adams Street and Garren Drive off of Section House Road NE. The current zoning was R-1. The property size was just under 21 acres. The property was currently zoned low density, R-1. This was actually annexed a few years back when the Favor Center was looking at consolidating and expanding their operations. It was rezoned at the time from the County into the City, and it was annexed to be able to supply water and sewer to the site, but their plans fell through. It opened it up for maybe something bigger and better. Due to the floodplain constraints on the western portion of the property, the owner was seeking to rezone the property to allow for a higher density to increase the development ability of their parcel. They just would not be able to make it profitable if it was R-1 which was the City's lowest residential density. The property owner had requested to rezone the properties to medium density, R-2 residential zoning. He referred to the PowerPoint and displayed a map pointing out the subject parcel. He noted this was the future land use map. He pointed out the subject site and the rest of it was zoned low density residential. He displayed another map and pointed out the property in question outlined in red. He advised it was surrounded by low density residential, but it was County R-20. Their low density residential was very similar in nature to what the applicant was looking for, which was an R-2 under the City zoning. He reminded Council that it was already zoned City zoning, it was already annexed. He displayed another map and pointed out the subject site. He pointed out some woods, the floodplain, and Section House Road. The property was currently zoned R-1 and was currently vacant. The general area was classified as low density residential by Hickory by Choice. The comprehensive plan basically stated that it was low density residential and said that this classification was intended to pursue an area of transition between higher density housing and the surrounding area by offering development at two to four units per acre. The Hickory comprehensive plan also talked about the gross density it was proposed to be less than medium density. A conservation subdivision through the design principles outlined in the Land Development Code (LDC) was what the applicant was after. That could provide opportunities for a combination of both small and large lot development that hopes to preserve open space, protecting environmentally sensitive areas, while at the same time having a higher density. In this case with the R-2 the applicant would be required under law, under ordinance to keep at least 30 percent of the property in perpetuity as open space. That was clearly noted in Hickory by Choice 2030. The R-2 zoning district was not listed, technically it was the implementing district within Hickory by Choice, but the density discussed within the aforementioned section of the comp plan clearly stated densities up to four units an acre was appropriate and permissible. They were looking at up to but not more than four units per acre which was compatible with Hickory by Choice. Staff recommended to the Planning Commission and the Planning Commission had a positive recommendation to Council that this be considered consistent with the findings and recommendations of Hickory by Choice 2030. He gave some examples of currently in the R-1 what was permitted: duplexes, single-family homes, mobile homes, mobile home parks, and family care homes. There was a bit of a variety. The R-2 permitted uses were single-family homes, detached family care homes, and accessory dwelling units. The County was the same but the County also in the R-20 allowed mobile homes on individual lots. They also allowed animals, that type of usage. It was a little bit wider open in the R-20. The City's R-2 was quite restrictive as they probably knew. He advised the recommendation of the Planning Commission during their public hearing back in September was they voted unanimously 8-0 to affirm the petitions consistency with Hickory by Choice comprehensive plan and recommended that City Council approve the petition. Staff respectfully concurred with the recommendation of the Hickory Regional Planning Commission (HRPC). He asked for any questions.

Alderwoman Patton asked how much of the property was in the flood zone.

Planning Director Brian Frazier advised it was a relatively small percentage. He was sorry that map did not get in the presentation, but it was a relatively small percentage, and the applicants were in the audience to address those specific questions.

Alderman Zagaroli inquired if R-20 allowed mobile home parks.

Planning Director Brian Frazier replied, no sir, it would not. It was basically pretty much single family residential and detached.

Alderwoman Williams asked if the owner/developer was the Favor Center.

Planning Director Brian Frazier advised the Favor Center was the current owner of the property and they were in negotiations and the agent for the proposed, the potential buyer who was in negotiations with the Favor Center were present to address any specific questions. The Favor Center was looking at selling this since their plans, unfortunately, fortunately depending how you look at it, what side of the coin, fell through.

Mayor Guess asked for any further questions for Mr. Frazier. He explained the rules for conducting the public hearing. He declared the public hearing open and asked if there was anyone present to speak in opposition to the proposal. No one appeared. Mayor Guess asked if there was anyone present to speak in favor of the proposal.

PROPONENT

Mr. John McCormick, 115 Ashmore Circle, Troutman, North Carolina advised they were pretty excited to be coming to Hickory. He really liked the trail system the City was putting in. It was pretty innovative, and they were looking forward to coming up here and building. He became familiar with Hickory years back. He was in the furniture industry when he was out of college and was familiar with the area. He always liked the area. It actually reminded him of where he was from in western Pennsylvania in the mountain area. The terrain here was very similar and the hardwood forest. There were a lot of things that they thought were very advantageous down here. He advised they actually owned the property and had purchased the property. It had closed and it was theirs, so they were ready to go. One of the things that was a little different about their company and probably some of the bigger companies, they were a small company in the world of builders, but in the world of small builders they were probably pretty large. One of the things they try and do was use local labor and use local suppliers as much as they could. They thought they were pretty advantageous for the area. He thought they had some other things planned up here coming also. He asked for any questions.

Alderman Wood asked regarding the floodplain how much of the property the floodplain accounted for. Part of this had to be dedicated and undeveloped. He asked if the floodplain met that requirement.

Mr. John McCormick replied yes, the floodplain was probably, he guessed about ten percent of the property. He had looked at the plans from the engineers. It was actually really pretty done in there. This piece of property laid beautifully. It had about two and half feet of fall over 60 feet all the way down the hill, and the sewer lines were at the bottom side. They were going to try and keep that area very natural. There were already a couple of walking trails that go down through there. They would keep that type of thing. They build single family homes. Homes probably in the 1,450 – 1,650 square foot, three bedroom. They build mostly ranch homes, three bedrooms, two bath, two car garage. That was what they had made their little niche doing.

Alderwoman Patton asked what his price range was.

Mr. John McCormick responded that was a tough question. He had been in this business since 1979. The last couple of years had been trying. Right now, they were trying to be in the \$230,000 to \$250,000, but every day it changed. Literally on their spec houses right now he did not give out any prices until they get them done because they have no control over pricing, and they were seeing such radical changes and then availability of things. He just had five houses of windows that came in that were ordered at Thanksgiving and they came in two weeks ago. That was part of the stuff they were dealing with going along. It was the nature of the beast. They overcome obstacles was what they do.

Mayor Guess thanked Mr. McCormick and commented they certainly need residential housing. He asked if anyone else present would like to speak in favor of this rezoning. No one else appeared. He closed the public hearing.

Alderman Zagaroli moved, seconded by Alderwoman Patton approval of Rezoning Petition 21-05 for 3617 Section House Road. The motion carried unanimously.

ORDINANCE NO. 21-35

AN ORDINANCE OF THE HICKORY CITY COUNCIL AMENDING THE OFFICIAL HICKORY ZONING ATLAS TO REZONE +/- 20.66 ACRES OF PROPERTY LOCATED BETWEEN THE TERMINUS OF ADAM STREET AND THE TERMINUS OF GARREN DRIVE, FROM R-1 RESIDENTIAL TO R-2 RESIDENTIAL

WHEREAS, Article 2, Section 2.2 of the Hickory Land Development Code provides for amendments to the Official Zoning Atlas; and

WHEREAS, the City has been petitioned to rezone +/- 20.66 acres of property between the terminus of Adam Street and the terminus of Garren Drive, more particularly described on Exhibit A attached hereto, to allow a R-2 Residential district; and

WHEREAS, the Hickory Regional Planning Commission considered the proposed rezoning during a public hearing on September 22, 2021, and forwarded a recommendation of approval to the City Council; and

WHEREAS, Article 2 of the Hickory Land Development Code requires findings the proposed rezoning is in response to changing conditions and is reasonably necessary to promote the public health, safety, and general welfare; and

WHEREAS, the City Council has found Petition 21-05 to be in conformance with the Hickory by Choice 2030 Comprehensive Plan and Zoning Ordinance,

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF HICKORY, NORTH CAROLINA, THAT THE REZONING OF THE PROPERTY LOCATED BETWEEN THE TERMINUS OF ADAM STREET AND THE TERMINUS OF GARREN DRIVE, DESCRIBED IN EXHIBIT A IS APPROVED.

SECTION 1. Findings of fact.

1. The subject property is located Between the terminus of Adam Street and the terminus of Garren Drive. Identified as PIN 3732-06-28-7944.
2. The rezoning request is intended to further implement the findings and recommendations of the Hickory by Choice 2030 Comprehensive Plan.
3. The rezoning of the property is consistent with the Hickory by Choice 2030 Comprehensive Plan.

SECTION 2. All ordinances or provisions of the Hickory City Code which are not in conformance with the provisions of the Amendment occurring herein are repealed as of the effective date of this Ordinance.

SECTION 3. Statement of Consistency and Reasonableness

Upon considering the matter, the Hickory City Council found:

1. Comprehensive Plan. (Note: The Hickory by Choice 2030 Comprehensive Plan's Future Land Use map does not contain parcel line data, as the general boundaries of the land use categories are not concrete.)

The Hickory by Choice 2030 Comprehensive Plan states the following about Low Density Residential areas: "this classification is intended to provide an area of transition between higher density housing and the surrounding area by offering development at two (2) to four (4) units per acre, (HBC 2030, Pg. 3.9). The Hickory by Choice 2030 Comprehensive Plan goes on to state; "although the gross density in these areas is proposed to be less than Medium Density Residential, conservation subdivision design principles can provide opportunities for a combination small and large lot development that helps preserve open space and protect environmentally sensitive areas" (HBC 2030, Pg. 3.9)

The R-2 zoning district is not listed as the implementing zoning district for the Low-Density Residential classification; however, the density discussed within the quoted section of the Hickory by Choice 2030 Comprehensive Plan clearly states densities up to four (4) units per acre are appropriate for the area. The R-2 district permits density up to, but not more than, four (4) units per acre, which is compatible with the language found with the Hickory by Choice 2030 Comprehensive Plan.

Given these factors, the rezoning of the properties to R-2 Residential should be considered to be consistent with the findings and recommendations of the Hickory by Choice (2030) comprehensive Plan.

2. The R-2 Residential classification is intended to provide locations for medium density single-family development.
3. The R-2 zoning district's permissible density adheres to the recommendations for areas classified as Neighborhood Mixed Use by the Hickory by Choice 2030 Comprehensive Plan.
4. Any and all improvements that are to take place on the property will be required to follow all applicable development regulations.
5. Sufficient public infrastructure is currently in place to handle the type of development possible on the subject property.
6. Any future development that takes place on the subject property will be regulated by current and future development standards duly adopted by the City of Hickory and the State of North Carolina; and
7. Any future development occurring on the subject property will be required to adhere to all state and local building, fire, and flood zone related development regulations. Such regulations will ensure proper protections are provided to ensure surrounding residents, and property owners are properly protect as prescribed by law.

Based upon these findings, the Hickory City Council has found Rezoning Petition 21-05 to be reasonable and consistent with the findings and recommendations of the Hickory by Choice 2030 Comprehensive Plan.

SECTION 4. This Ordinance shall become effective upon adoption.

B. Departmental Reports:

1. Ward Rebalancing Update, Consideration of Adding Option 3 – Presentation by City Manager Warren Wood

City Manager Warren Wood presented a PowerPoint. He advised at Council's last meeting they were presented with two options for their rebalancing and redistricting the ward system here in Hickory. Over the course of the last couple of weeks he had gotten just a couple of comments from City Council members, and he had worked to accommodate some of those comments. He was recommending the addition of an Option "C". The changes were fairly minor. In Ward 6 they would add back a portion of the Shuford Development and in Ward 2 add back Sunset Hills. Those were currently in Wards 6 and 2. The only caveat was that the attorney would take the next week to vet all of that to make sure that it still met all the criteria. They were hopeful that it would not get them out of balance with the five percent rule or anything else. The attorney recommended in the interim that they go ahead and put this option out there for citizens to review and look over. He asked Council to act on that if they were comfortable with adding it. What was amended was the original Option "A" which was still an option. Council would have Options "A", "B", and "C".

Mayor Guess interjected this gives Council a third option. He advised Council was not voting on it as an option, they were voting on it to include it as an option, to add a third option.

City Manager Warren Wood referred to the PowerPoint. He displayed a timeline. He explained the timeline. If Council voted to add Option "C" tonight it would be added to the list but verified by October 11. The attorney would have it vetted by then and as long as it was compliant it would stay a third option. The public hearing would be held October 19. Ideally approved on first reading by City Council, whichever option they approved, that would be done on first reading. November 2nd would be second reading, final adoption of the new ward map, which everyone they chose, and then on the drop-dead date by November 17 they have to have the map submitted to the Board of Elections at the County. If they meet that, filing under this timeline would be December 6 – 17, the primary March 8, and the general election April 26. There was a little wiggle room in there. They could move some of that out to where the filing occurred in January, but right now this was the trajectory they were on. If Council was comfortable with adding Option "C" as a third option, they would need action per the attorney to just put that out there.

Alderwoman Patton moved, seconded by Alderwoman Williams approval of adding option “C”. Ayes: Alderman Wood, Alderwoman Williams, Alderman Seaver, Alderman Zagaroli, Alderwoman Patton, and Mayor Guess. Nay: Alderman Williams. The motion passed 6-1.

2. Appointments to Boards and Commissions

CITIZENS ADVISORY COMMITTEE

(Terms Expiring 6-30; 3-Year Terms) (Appointed by City Council)

Small Cities Project Area Grace McLaurin Resigned 7-12-2021 VACANT

COMMUNITY APPEARANCE COMMISSION

(Terms Expiring 6-30; 3-Year Terms) (Appointed by City Council)

Ward 4 (Alderman William Appoints) (Charlette Gore Resigned 8-23-21) VACANT

At-Large (Outside City but within HRP) (Council Appoints) VACANT

COMMUNITY RELATIONS COUNCIL

(Terms Expiring 6-30; 3-Year Terms) (Appointed by City Council)

Other Minority (Council Appoints) VACANT

Other Minority (Council Appoints) VACANT

Other Minority (Council Appoints) VACANT

Differently Abled and is African American or Other Minority (Council Appoints) VACANT

Differently Abled (Council Appoints) Beth Whicker

(Not Eligible for Reappointment)

HISTORIC PRESERVATION COMMISSION

(Terms Expiring 6-30; 3-Year Terms) (Appointed by City Council)

Licensed Architect (Council Appoints) Ernie Sills

(Not Eligible for Reappointment)

At-Large (2)(Council Appoints) Mary Moorer

(Eligible for Reappointment/Does Not Wish to Serve Again)

LIBRARY ADVISORY BOARD

(Terms Expiring 6-30; 3-Year Terms) (Appointed by City Council)

Ward 4 (D. Williams Appoints) VACANT

Ward 6 (Patton Appoints) Gail Miller

(Eligible for Reappointment/Does Not Wish to Serve Again)

PUBLIC ART COMMISSION

(Terms Expiring 6-30; 3-Year Terms) (Appointed by City Council)

Ward 4 (D. Williams Appoints) VACANT

At-Large (Mayor Appoints) Beth Bowman

(Not Eligible for Reappointment)

PUBLIC HOUSING AUTHORITY

(Terms Expiring 6-30; 5-Year Terms) (Appointed by the Mayor)

Position 3 (Mayor Appoints) VACANT

Position 9 (Mayor Appoints) (Unexpired Term of Rebecca Clements) VACANT

YOUTH COUNCIL

(Terms Expiring 6-30; 1-Year Terms) (Appointed by City Council)

Youth Council Applicant Review Committee Recommends the Following Appointments:

Fred T. Foard VACANT

Homeschool VACANT

C. Presentation of Petitions and Requests

XII. Matters Not on Agenda (requires majority vote of Council to consider)

City Attorney John Crone asked for a brief closed session to discuss one of the City’s eminent domain cases that they had been following. It was mediated today, Catawba County Superior Court Case 20CVS2408.

XIII. General Comments by Members of Council, City Manager or City Attorney of a Non-Business Nature

XIV. Closed Session Per NC General Statutes 143-318.11(a)(3) to consult with the attorneys regarding the following: (Action on these items, if any, will occur in Open Session)

October 5, 2021

Mayor Guess moved, seconded by Alderwoman Williams, that Council add discussion of Catawba County Superior Court Case 20CVD2408 to the agenda and go into closed session to consult with the attorneys. The motion carried unanimously.

1. Discussion of Pending Litigation Catawba County Superior Court Case 20CVS2408 – NCGS §143-318.11(a)(3).

Council convened to closed session at approximately 7:32 p.m.

Council reconvened to open session at approximately 7:45 p.m.

- XV. There being no further business, the meeting adjourned at 7:45 p.m.

Mayor

City Clerk